

REMARKS

Careful consideration has been given to the Official Action of September 5, 2007 and reconsideration of the application is respectfully requested.

In reply to Section 2 of the Official Action, Applicant's comments on page 16-17 of the previous response of April 18, 2007 were in response to the previous rejection under 35 USC 101 "statutory double patenting"), and not in response to the obviousness-type double patenting rejection ("nonstatutory double patenting). Inasmuch as the rejection under 35 USC 101 is not raised in the present Official Action, Applicant assumes that the rejection has been overcome. The Examiner's agreement to hold the nonstatutory double-patenting rejection in abeyance for the current Official Action has been noted with appreciation.

To avoid the Examiner's claim objections, claims 8, 17, and 19 have been canceled.

Claim 36 has also been canceled.

New claims 37-39 have been added. Support for these claims can be found in the specification as filed at, for example, page 23, line 29 to page 24, line 4.

Claims 1-6, 8-11, 14, 15, 17-21, 23-27, 29, 32 and 34-36 stand rejected by the Examiner under 35 USC 102(b) as being allegedly anticipated by US Patent No. 6,198,963 (hereafter "Ben Haim").

Claims 12, 13, 30, 31, and 28 stand rejected by the Examiner under 35 USC 103(a) as being allegedly unpatentable over Ben Haim.

The claimed invention is distinguished from and patentable over Ben Haim as will be discussed hereafter.

The claimed invention provides storing a first electrical energy derived from the RF driving field during a first time period, and a second time period following the first time period; powering the generation of the digital output signal using the first stored electrical energy, and powering the transmission of the digital output signal using the second stored electrical energy.

By having distinct first and second time periods and providing first and second stored electrical energies, the power transmission and digital signal transmission do not occur simultaneously, thereby preventing interference between the power transmission signal and the position signal and enhancing the signal-to-noise ratio (page 10, lines 10-15). By separately powering the generation of the digital output signal and the transmission thereof, the power required to be stored in the transponder is also reduced, and allows the use of a small power storage device that can quickly be adequately charged (page 10, lines 19-21).

In contrast, Ben Haim does not teach or suggest separate steps of powering the generation of the digital output signal using the first stored electrical energy and powering the transmission of the digital output signal using a second stored electrical energy. Specifically,

Ben Haim discloses a verification device which may be operated in a learning mode or a testing mode. In the learning mode, which is performed by a medical professional when the object to be tracked is in the proper position, the device measures the distance from the device to the object and stores the measurement as a reference value. In the testing mode, the device measures the distance from the device to the object and compares the measurement with the reference value to confirm that the object is still at the same place. However, there is no suggestion or reason for the provision of two separately stored electrical energies or for the generation and the transmission of the output signal powered using first and second stored electrical energies.

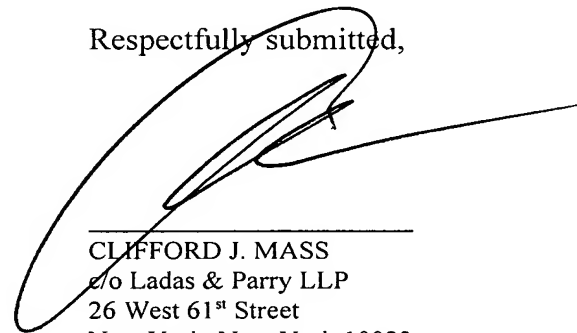
The Examiner cites column 3, lines 27-31 of Ben Haim which states “the confirmation is performed using any confirmation method known in the art, such as X-ray imaging, preferably without using the verification device”. However, when the verification device of Ben Haim is not used during the confirmation, there clearly would be no receiving of RF driving field or storing of electrical energy derived therefrom as required by the claimed invention.

With respect to the Examiner’s comments in paragraph 2 of page 3 of the Official action clarifying the rejection under 35 USC 103 in view of Ben Haim, it is respectfully submitted that there is no motivation or even reason in Ben Haim to replace the single sensor with multiple transponders. Ben Haim specifically teaches away from multiple transponders by disclosing using a single sensor and moving the verification device to various “anchor points” until the proper signal is found (column 4, lines 9-14). The mere fact that the single

sensor may include a transponder, as pointed out by the Examiner, would not provide a reason for one skilled in the art to replace the single sensor with a plurality of transponders.

In view of the above action and comments, it is respectfully submitted that each and every rejection raised by the Examiner has been dealt with, and favorable reconsideration of the application as amended is earnestly solicited.

Respectfully submitted,

A large, stylized handwritten signature in black ink, appearing to read 'Clifford J. Mass', is written over the typed name and address.

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